

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6860

Petitions of Vermont Electric Power Company, Inc.)
(VELCO) and Green Mountain Power Corporation)
(GMP) for a certificate of public good, pursuant to)
30 V.S.A. Section 248, authorizing VELCO to)
construct the so-called Northwest Vermont)
Reliability Project, said project to include: (1))
upgrades at 12 existing VELCO and GMP)
substations located in Charlotte, Essex, Hartford,)
New Haven, North Ferrisburgh, Poultney, Shelburne,)
South Burlington, Vergennes, West Rutland,)
Williamstown, and Williston, Vermont; (2) the)
construction of a new 345 kV transmission line from)
West Rutland to New Haven; (3) the reconstruction)
of a portion of a 34.5 kV and 46 kV transmission line)
from New Haven to South Burlington; and (4) the)
reconductoring of a 115 kV transmission line from)
Williamstown to Barre, Vermont –)

Order entered: 11/30/2007

SECOND ORDER RE REVIEW OF PROPOSED LAY-DOWN AREA

On July 18, 2007, Vermont Electric Power Company, Inc. and Vermont Transco, LLC (collectively "VELCO") filed with the Public Service Board ("Board") a request for approval of a construction lay-down area in Ferrisburgh, Vermont. The lay-down area would be used to store several hundred poles and miscellaneous construction material, provide parking for construction crews, and host construction trailers.

Addison County Regional Planning Commission ("ACRPC") and the Town of Ferrisburgh ("Ferrisburgh") filed a letter objecting to VELCO's request, contending that the Board does not have jurisdiction over the proposed lay-down area and the proposal would properly be subject to local review by Ferrisburgh. Further, ACRPC and Ferrisburgh asserted that, if the Board has jurisdiction over the lay-down area, VELCO must amend its petition for a certificate of public good.

On August 15, 2007, the Board issued an order stating

Although the proposed lay-down area is not, by itself, a transmission facility, it appears to be a necessary component for the construction of the Northwest Reliability Project. Pursuant to 30 V.S.A. § 248, Board approval is required for site preparation and construction of a transmission facility. Consequently, the Board has jurisdiction over the review of the proposed lay-down area.

The remaining question is the manner in which the Board reviews VELCO's request. The proposed lay-down area appears to have the potential to impact one or more of the substantive criteria of 30 V.S.A. § 248(b). Therefore, VELCO must obtain an amended certificate of public good for the proposed construction and must provide sufficient information for the Board and parties to review the proposal.

The August 15 Order further required VELCO to file a letter explaining why, given the need for Board approval of the lay-down area, it did not obtain Board approval for the lay-down area in Leicester.

After hearing nothing further from VELCO on the issue, the Board issued a memorandum on October 26, 2007, requiring VELCO to file an update regarding its proposed lay-down area.

On November 8, 2007, VELCO filed a letter contending that the Board's August 15 Order included a new standard for determining when an amendment to a certificate of public good ("CPG") is required. The Board's Order stated that the "proposed lay-down area appears to have the potential to impact one or more of the substantive criteria of 30 V.S.A. § 248(b)." VELCO asserts that the Board's precedent has consistently stated that an amendment to a CPG is required if there is the potential for a significant impact on one or more of the Section 248(b) criteria.¹ VELCO contends that, in light of the apparent disparity between Board precedent and the August 15 Order, it chose to modify its plans to minimize construction delays. Specifically, VELCO states that it has

decided to use its New Haven substation site temporarily to store some of the poles needed for construction. Additional poles and construction materials are planned for delivery to a parcel owned and used by the Agency of Transportation for road construction support.

1. VELCO cites to Docket Nos. 5841/5859, Order of 6/16/97 at 134-136 for this proposition.

VELCO contends that the use of these sites do not create a potential for significant impact on any of the Section 248(b) criteria. VELCO further represents that ACRPC and the Town of Ferrisburgh recommended the use of the Agency of Transportation site.

With respect to the Board's request for further information regarding the lay-down area in Leicester, VELCO contends that the use of the site "did not require an amended CPG because there were no significant impacts on any of the § 248(b) criteria." VELCO further states that it obtained a local zoning permit from Leicester to "maintain good relations with the affected community." VELCO's November 8 letter states that construction of the 345 kV line is complete and the Leicester lay-down area is no longer in use.

VELCO neglects to examine the Board's role in determining whether there is a potential for significant impact on any of the Section 248(b) criteria. VELCO cites to the Board's June 16, 1997 Order in Dockets 5841/5859 for the test as to when an amendment to a CPG is required. However, VELCO passes over the portion of the Order making clear that it is the *Board* that determines whether any changes to a project may have the potential for significant impact under the Section 248(b) criteria, not VELCO.² Consistent with this precedent, the Board hereby requires VELCO to file sufficient information regarding the proposed lay-down area, at both its existing New Haven substation site and the Agency of Transportation site, as well as information regarding the lay-down area in Leicester, so that the Board may determine whether an amendment to VELCO's CPG is required. The Board previously specified the required additional information in its August 15 Order. VELCO must file this information by December 12, 2007; any comments regarding VELCO's filing must be made by December 21, 2007.

The Board finds disturbing the fact that VELCO appears to seek Board approval for these lay-down facilities only when it is convenient for VELCO. VELCO did not seek any approval for its Leicester lay-down facility but determined that Board approval was required for the Ferrisburgh area. Once the Board indicated that additional information was required for adequate review of the proposed lay-down area, VELCO once again concluded that Board approval was not necessary, under the mistaken impression that VELCO itself could make jurisdictional

2. Docket Nos. 5841/5859, Order of 6/17/97 at 132-133.

determinations regarding whether approval is required. We expect counsel for VELCO to make reasonable and consistent evaluations of when Board approval for certain actions are required; the evaluations performed on this issue to date do not reflect this standard. In the future, we trust that VELCO will undertake more thoughtful review of its actions

Dated at Montpelier, Vermont, this 30th day of November, 2007.

_____)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: November 30, 2007

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)